

United States Senate

WASHINGTON, DC 20510

February 10, 2009

The Honorable Robert M. Gates
Secretary of Defense
The Pentagon
Washington, DC 20301-1000

The Honorable Preston M. Geren, III
Secretary of the Army
Office of the Secretary of the Army
Washington, DC 20310-0101

Dear Secretary Gates and Secretary Geren:

We write today to request further information about the Army's response to the exposure of U.S. servicemembers to hexavalent chromium at the Qarmat Ali water injection facility in Iraq.

We would like to thank you for your efforts to address our original questions and concerns about this issue. Our offices have received briefings about the Defense Health Board's (DHB) review of the Army's actions following the exposure; the Army's internal review of its actions; and the Army's assessment of KBR's performance of its contracts to refurbish the facility.

Those briefings, and our own ongoing investigations, however, have raised additional questions regarding the Army's response to the exposure and oversight of the KBR contract.

First, we believe that the exposure at Qarmat Ali may have been more severe and widespread than reported. As we understand, OSHA has set a legal limit for hexavalent chromium of 0.0005 mg/m³ chromium in air averaged over an 8 hour work day. Though we recognize that the Army believes that the group of soldiers at greatest risk of exposure was exposed for an average of 147 hours, some were most certainly exposed to quantities much greater than 0.0005 mg/m³ before KBR remediated the site. As such, we are concerned that their exposure will make them more susceptible to negative health effects in the future.

Second, we are troubled that the Army Corps of Engineers (ACOE) declared it was "satisfied" with the way KBR performed the contract at Qarmat Ali. If we understand correctly, KBR was to have performed an environmental risk assessment prior to the arrival of U.S. servicemembers. This assessment apparently failed to detect what we all now know to be significant quantities of hexavalent chromium. We have also been told that KBR was given a United Nations report in the spring of 2003, which identified the presence of hexavalent chromate at the site.

We are also troubled by the timeline the Army has presented with regard to KBR's delays in notifying the Army and its failure to take prompt action to respond to the exposure.

According to the briefing our staffs received from the Army, the company was aware of the contamination on June 1, 2003, at the latest. However, KBR did not notify the ACOE until July 25; did not begin site testing until August 2; did not begin remediation until August 11; did not provide personal protection equipment (PPE) until September 8; and did not send preliminary test results to the Army until September 8. In fact, Indiana Army National Guard (INARNG) personnel were not even told of the exposure until they saw KBR employees using PPE at the site.

Why is it acceptable, in the ACOE's opinion, for a contractor to knowingly allow American servicemembers, as well as its own employees, to be exposed to a deadly carcinogen for more than two months without warning, testing or ordering that PPE be used? Further, why didn't ACOE inform the Coalition Forces Land Component Command (CFLCC) about the exposure?

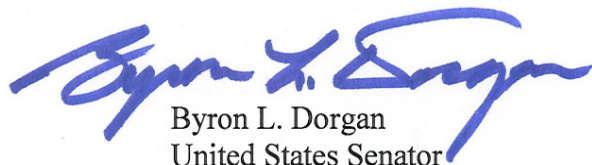
Third, the DHB presented our offices with an extensive list of recommendations based on this exposure. How is the Army following up on these recommendations? Will the Army be amending any relevant regulations? Will the Army be requesting statutory changes based on the DHB recommendations?

Lastly, we understand that some soldiers exposed at Qarmat Ali still have not been contacted about the exposure. How is the Army working with the INARNG to track, locate, and inform these individuals? How is the army working to track, locate, and inform soldiers affiliated with other National Guard units, specifically, units from Oregon, South Carolina and West Virginia?

We look forward to hearing from you on this important matter. In the meantime if you have any questions, please contact us or have your staff contact Leslie Gross-Davis at (202) 224-3571 or Jon Davey at (202) 224-8726.

Thank you for your continued service and prompt attention to the matter.

Sincerely,



Byron L. Dorgan
United States Senator



Evan Bayh
United States Senator